APPENDIX

IN THE CIRCUIT COURT OF 15TH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ALABAMA

Case No.: CC-85-1684-PR

(Caption omitted in printing)

FILED: January 24, 1986

MOTION FOR NEW TRIAL

Comes now the Defendant by and through his Attorney of record and moves this Honorable Court to grant the Defendant a new trial in this case. The Defendant respectfully represents that he plead guilty to the crimes of Burgulary I and Rape I on January 6, 1986 in this Court. Subsequent to that on January 17, 1986, he was sentenced to thirty years in the penitentiary concurrent on each case. The Defendant respectfully requests that this Honorable Court grant him a new trial for the following reasons:

1. The Defendant was under an extreme emotional and mental and mental disturbance at the time of these pleas and they were not voluntary.

2. Based upon this mental and emotional disturbance by the Defendant, he was coerced into entering this guilty plea and the Court should have recognized based upon this disturbance that this plea was not voluntary and knowingly made.

3. The Defendant has a Motion to Withdraw the guilty plea pending in this case.

4. Based upon the above, the Defendant respectfully requests this Honorable Court set this matter down for a new trial at its earliest convenience.

Respectfully submitted,
/s/Elno A. Smith
ELNO A. SMITH
Attorney for Defendant

(Certificate of service omitted in printing)

IN THE CIRCUIT COURT OF 15TH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ALABAMA

Case No.: CC-85-1684-PR

STATE OF ALABAMA

v.

JAMES L. SMITH

FILED: January 24, 1986

MOTION TO WITHDRAW GUILTY PLEA

Comes now the Defendant by and through his Attorney of record and moves this Honorable Court to allow him to withdraw the guilty plea entered in this case on to-wit January 6, 1986. The Defendant plead guilty the crimes Burgulary I and Rape I and when sentenced on January 17, 1986, thirty years in the penitentiary on each case to run concurrently.

The Defendant cites that at the time of the guilty plea on January 6, 1986, he was undergoing an extreme mental and emotional breakdown. He further represents that he did not know the nature of the crime nor could he knowingly waive his rights to a trial. The Defendant represents to the Court that the plea was not voluntary because of his mental condition and as a result, he should be allowed to withdraw it and have this matter set down for a trial by jury.

The Defendant respectfully requests this Honorable Court allow him to withdraw his guilty plea or in the alternative, to order the transcript in this case be immediately prepared so the record will reflect the involuntariness of these guilty pleas and show the Court that these pleas were not done knowingly and voluntarily by the Defendant. The Defendant respectfully requests this Honorable Court set this matter down for a hearing at its earliest convenience.

Respectfully submitted,

/s/Elno A. Smith
ELNO A. SMITH
Attorney for Defendant

(Certificate of service omitted in printing)